

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

IN RE PHARMACEUTICAL INDUSTRY
AVERAGE WHOLESale PRICE
LITIGATION

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)
) MDL NO. 1456
) Civil Action No. 01-12257-PBS
)

THIS DOCUMENT RELATES TO THE
AMENDED MASTER CONSOLIDATED
CLASS ACTION

) Hon. Patti B. Saris
)
) Chief Mag. Judge Marianne B. Bowler
)
)

**DECLARATION OF MICHAEL DEMARCO IN SUPPORT OF TRACK TWO
DEFENDANTS' MOTION TO COMPEL PLAINTIFF BLUE CROSS BLUE SHIELD OF
MASSACHUSETTS, INC. AND
THIRD-PARTY NATIONAL HERITAGE INSURANCE COMPANY
IN THEIR CAPACITIES AS THE MEDICARE PART B CARRIERS FOR
MASSACHUSETTS
TO PRODUCE DOCUMENTS AND WITNESSES FOR DEPOSITION
PURSUANT TO SUBPOENA**

I am a partner in the law firm of Kirkpatrick & Lockhart Nicholson Graham LLP, representing Defendant Aventis Pharmaceuticals, Inc. I offer this declaration in support of the Track Two Defendants' Motion to Compel Plaintiff Blue Cross Blue Shield of Massachusetts, Inc. and Third-Party National Heritage Insurance Company in Their Capacities as the Medicare Part B Carriers for Massachusetts to Produce Documents and Witnesses for Deposition Pursuant to Subpoena.

1. Attached as Exhibit 1 is the October 21, 2005 subpoena to produce documents issued to Plaintiff Blue Cross and Blue Shield of Massachusetts, Inc.
2. Attached as Exhibit 2 is the October 28, 2005 subpoena to produce a Rule 30(b)(6) designee issued to Plaintiff Blue Cross and Blue Shield of Massachusetts, Inc.
3. Attached as Exhibit 3 is the October 27, 2005 subpoena to produce documents issued to Third-Party National Heritage Insurance Company.
4. Attached as Exhibit 4 is the October 28, 2005 subpoena to produce a Rule 30(b)(6) designee issued to Third-Party National Heritage Insurance Company.

5. Attached as Exhibit 5 is the November 4, 2005 letter from Steven E. Skwara to Aimée E. Bierman enclosing the objections of Plaintiff Blue Cross and Blue Shield of Massachusetts, Inc. to the October 21, 2005 subpoena.
6. Attached as Exhibit 6 is the November 9, 2005 objections of Third-Party National Heritage Insurance Company to the October 27, 2005 and October 28, 2005 subpoenas.
7. Attached as Exhibit 7 is the November 10, 2005 email from Aimée E. Bierman to Steven E. Skwara enclosing a draft custodian of records declaration.
8. Attached as Exhibit 8 is the November 14, 2005 email from Aimée E. Bierman to Leslie Stafford and Gary S. Starr enclosing a draft custodian of records declaration.
9. Attached as Exhibit 9 is the November 14, 2005 letter from Steven E. Skwara to Aimée E. Bierman
10. Attached as Exhibit 10 is the December 27, 2005 email from Nick Mizell to Steven E. Skwara.
11. Attached as Exhibit 11 is the January 10, 2006 email from Steven E. Skwara to Nick Mizell.
12. Attached as Exhibit 12 is the January 13, 2006 letter from Nick Mizell to Steven E. Skwara.
13. Attached as Exhibit 13 is the January 19, 2006 email from Nick Mizell to Steven E. Skwara.
14. Attached as Exhibit 14 is the January 19, 2006 email from Nick Mizell to Gary S. Starr.
15. Attached as Exhibit 15 is the January 24, 2006 email from Nick Mizell to Gary S. Starr.
16. Attached as Exhibit 16 is the January 30, 2006 email from Nick Mizell to Gary S. Starr.
17. Attached as Exhibit 17 is the February 13, 2006 e-mail from Nick Mizell to Steven E. Skwara.
18. Attached as Exhibit 18 is the February 14, 2006 letter from Steven E. Skwara to Nick Mizell.
19. Attached as Exhibit 19 is the February 23, 2006 letter from Nick Mizell to Steven E. Skwara.
20. Attached as Exhibit 20 is the February 1, 2006 email from James P. Muehlberger to Gary S. Starr.

21. Attached as Exhibit 21 is the February 1, 2006 e-mail from Gary S. Starr to James P. Muehlberger.
22. Attached as Exhibit 22 is the February 3, 2006 email from James P. Muehlberger to Gary S. Starr.
23. Attached as Exhibit 23 is the February 8, 2006 email from Gary S. Starr to James P. Muehlberger.
24. Attached as Exhibit 24 is the February 13, 2006 email from Nick Mizell to Gary S. Starr.

I declare under penalty of perjury that the foregoing is true and correct.

Dated: February 28, 2006

/s/ Michael DeMarco

Michael DeMarco